IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4050 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DINESH VENILAL MEHTA

Versus

GUJ STATE ROAD TRANSPORT CORPN

Appearance:

1. Special Civil Application No. 4050 of 1990

MR Prabhakar Upadhyay for the Petitioner

MR HARDIK C RAWAL for Respondents No. 1-2

CORAM : MR.JUSTICE D.A.MEHTA

Date of decision: 19/02/2002

ORAL JUDGEMENT

The petitioner was serving as Depot Manager, Savarkundla, of Gujarat State Road Transport Corporation (hereinafter referred to as "the Corporation"). It appears that during his posting at the said station the

charge-sheet came to be issued on 21.04.1982 by the Divisional Controller, Amreli. The charges levelled were to the effect that he failed in carrying out his duties in taking adequate care of the spare parts and machinery, namely, crown pinions resulting in damage to the specified units of crown pinions and as a consequence the Corporation was put to financial loss. It was further stated that the said losses had been occasioned due to negligence of the petitioner. Ultimately, after holding enquiry an order of dismissal was passed. The petitioner challenged the same before the first appellate authority who upheld the said order. Being aggrieved, the petitioner preferred second appeal and on 15.11.1998, after taking into consideration the facts on record, and the submissions made by the petitioner, the second appellate authority modified the order by reinstating the petitioner from the date he was dismissed but held that for the intervening period, namely, from the date of the dismissal till the date of reinstatement the petitioner would not be entitled to back wages and further more the annual increments for two years would not be granted to the petitioner on a permanent basis. It is against the aforesaid order that the petitioner has approached this Court.

2 Mr Prabhakar Upadhyay appearing on behalf of the petitioner contended that the entire proceedings commencing from enquiry against the petitioner were vitiated as principles of natural justice had not been followed. That the petitioner had requested for various documents on which reliance had been placed by the enquiry officer but the same had not been supplied to him. That even otherwise the order of the second appellate authority denying the back wages was contrary to law and facts and unwarranted. It was further contended that denial of full back wages for the intervening period by the second appellate authority without assigning any reason whatsoever should be held to be unreasonable and improper and the petitioner should not be penalised for the period taken in conducting the enquiry and hearing of appeals once the second appellate authority had come to the conclusion that the order of dismissal was not correct.

3 Mr Hardik Raval appearing for the respondent-corporation submitted that the second appellate authority had taken into consideration all the contentions raised by the petitioner which were made in person as well as in writing; that full and proper opportunity of hearing had been given to the petitioner and principles of natural justice had been complied with

and the petitioner can have no grievance at this stage about violation of such principles.

4 Having heard both the sides I feel that the impugned order dated 15.11.1988 passed by the second appellate authority requires to be interfered with to the extent of denial of back wages. Once the appellate authority had come to the conclusion that dismissal was not warranted, it was incumbent upon the authority to assign reasons, if any, to withhold the wages for the intervening period. From the order I find that no reasons are assigned by the authority for such denial. The appellate authority has obviously taken into consideration the grievance made by the petitioner about violation of principles of natural justice during the course of enquiry as well as subsequently. By way of illustration, as can be seen from the record, the order of dismissal as well as the order of confirmation by the first appellate authority were not accompanied by the reasoning and the findings recorded by the said authority for arriving at the conclusion of dismissal. It was only when the petitioner subsequently asked for findings and reasoning for such dismissal that the same were supplied to the petitioner. In the light of such a situation, once the second appellate authority found that the enquiry had not been conducted in a proper manner resulting into an order which could not be supported, the least that was expected of the second appellate authority is to give reasons for withholding the back wages for the intervening period, namely, from the date of dismissal till the date of reinstatement. The second appellate authority having failed to do so, this petition is allowed to the said extent.

5 The respondent-corporation is directed to compute the back wages for the period from the date of dismissal till the date of reinstatement within a period of four weeks from today and pay the same to the petitioner within a week thereafter.

Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

(D.A. Mehta, J.)
(mohd)